

Title V of Stewart B. McKinney Homeless Assistance Act Implementation Instructions

1. This information is provided as guidance for complying with the Title V of the McKinney Act. Title V of the McKinney Act is to determine suitability of Federal properties categorized as unutilized, underutilized, excess or surplus, and making them available for use if suitable to assist the homeless in accordance with several guidelines and processes.

2. References:

a. Title V of the McKinney Act (Identification and Use of Surplus Federal Property) US Code Title 42 Section 11411 & 11412.

b. 24 CFR part 581 Use of Federal Property to Assist the Homeless.

c. 41 CFR chapter 101 (Utilization and Disposal of Real Property), subparts 101-47.8 (Identification of Unneeded Federal Real Property) and 101-47.9 (Use of Federal Real Property to Assist the Homeless).

d. AR 405-45, Real Property Inventory Management.

e. AR 405-70 Utilization of Real Property.

f. AR 405-90 Disposal of Real Estate.

g. DA PAM 405-45 Real Property Inventory Management.

h. Executive Order 13327, Federal Real Property Asset Management.

3. Legal implications: Army installations cannot dispose of or lease Federal property to other than Federal entities without having made such properties available to assist the homeless.

4. Order of precedence: The Army will offer property for non-Army purposes in the following order of preference.

a. Other DoD agencies.

b. Other Federal agencies.

c. McKinney Act applicants.

d. State and local government agencies.

e. Private organizations.

5. Responsibilities:

a. Installations:

(1) Installations will survey all real property and identify applicable property with surveys referenced in paragraph (a) of 42 U.S.C. Section 11411 (Title V of the McKinney Act).

(2) Submit checklists once a quarter electronically to arrive at Office of the Assistant Chief of Staff (OACSIM) NLT last day of the quarter, i.e. 31 March, 30 June, 30 September, and 20 December.

(3) Request removal from HUD list.

(4) Confirm availability for suitable properties, and enter into offsite lease agreements with applicants.

(5) Prepare one checklist per property.

(6) Installation will track properties published in the Federal Register and ensure that advertised properties will not be made available for any other purpose until mandatory wait periods have expired.

(7) Reversible planning activities may commence; however, installations, with the support of ACSIM, will respond to homeless assistance organizations requests for information, applications, and approved applications as appropriate.

(8) Any such interest from a homeless assistance organization, application or appeal of an unsuitable determination puts use of the property for any other purpose on hold until HHS completes action on the McKinney application, all waiting periods have passed or HUD rules on the appeal.

b. Office of the Assistant Chief of Staff Installation Management (OACSIM):

(1) OACSIM will provide implementing guidance.

(2) Collect real property checklists from installations and submit to HUD the following: annual report of suitable properties, Federal property information checklists.

(3) Receive requests for removal from HUD list and availability confirmations for suitable properties.

(4) Notify installations of Federal Register dates.

(5) Maintain the Army's McKinney Act database of surveyed properties.

(6) On 31 December each year Army reports to HUD the current availability status and current classification of each suitable property previously published as suitable in a list in the Federal Register and indicates whether each property is available to provide homeless assistance and the reason why if not available.

c. Department of Housing and Urban Development (HUD):

(1) HUD will set program guidelines.

(2) Collect information regarding Federal buildings and land.

(3) Determine whether properties are suitable or unsuitable to provide homeless assistance.

(4) Publish determinations in the Federal Register.

(5) On 15 February each year HUD publishes the current classifications and availability status of all Federal suitable properties reported for the preceding year under the McKinney Act.

d. Health and Human Services (HHS) will accept and process applications from states, local government agencies, or private non-profit organizations which provide services to the homeless and notify installations of interest in certain properties.

e. General Services Administration (GSA) will dispose of excess real property upon notification (Report of Excess Real Property GSA Form SF 118).

6. Process:

a. Every quarter HUD will canvass the Army for a report on its unutilized, underutilized, excess and surplus real property.

b. This action has twenty-five day suspense from the date of notification from HUD.

c. This letter from HUD will usually arrive on the first, of each quarter and is sent to the OACSIM POC.

d. After HUD receives checklists from the Army, they make their suitability determination.

e. HUD will send the Army two lists, an unsuitable list and a suitable list. The unsuitable list is for information purposes only.

f. These properties will, according to the notice, be published in the given Federal Register date and the Army cannot act on any of the buildings for a period of 20 days.

g. This 20 day suspense is to allow a challenge, by a homeless provider, of HUD's unsuitable determination.

h. The suitable list will require the Army to provide HUD an availability status on those properties.

i. OACSIM has 45 days from the date stated in the notice to provide HUD the availability status of such properties. After HUD receives and processes OACSIM's availability status, they will notify the OACSIM of the date of publication in the Federal Register.

j. The Army cannot take any action on suitable properties for a period of 60 days to allow a representative of the homeless to write a written expression of interest to HHS for the property. If the written request is received, the homeless provider has 90 days from the date the application is received to complete an application for the property and submit it to HHS.

7. Reporting Guidelines for Suitable Property:

a. Installations confirm and report to OACSIM their intention to make HUD determined suitable properties, available to the homeless or the reason why they cannot make the property available. Reasons stated cannot include any one of the six conditions for unsuitability specified in 24 CFR § 581.6.

b. "Available" statements are as follows:

(1) (Installation) intends to declare unutilized or underutilized property to be excess.

(2) (Installation) intends to make unutilized or underutilized property available for use to assist the homeless.

(3) Excess Property has been reported as excess to GSA. Provide the HUD number, building number and GSA control number if known.

c. "Unavailable" statements are as follows:

- (1) Occupied.
- (2) Reutilized.
- (3) The property has been made available for Federal use by (name of DoD or Federal agency).
- (4) Other – Must give an explanation.

8. Applicable Property is Federal-owned real property that has been determined excess, surplus, or designated as unutilized or underutilized as determined by the installation commander using the results of real property surveys. This applies to property within the 50 states, District of Columbia, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

9. Removal from HUD's list:

a. Installation identifies properties that have been advertised under McKinney provisions for which no request or application for the property has been made, mandatory wait periods have expired and the property has been declared as one of the following:

- (1) Reutilized.
- (2) Sold.
- (3) Demolished.
- (4) Is processing for demolition.
- (5) Reported excess to GSA.
- (6) Transferred.
- (7) Out-leased.

b. McKinney Act procedures allow the Army to request removal of such properties from the HUD list.

c. Requests for removal are due to OACSIM NLT the last day of each quarter except by 20 December rather than 31 December for the fourth calendar quarter.

d. OACSIM submits a consolidated list to HUD.

e. Properties will remain on HUD's list indefinitely until they are removed by request for one of the specific disposal conditions mentioned above.

f. Processing for demolition generally means that the building is committed to a demolition contract or delivery order whereby funds have been awarded or is being advertised for award to a demolition contractor. **Special Note:** Keep in mind that if a homeless provider requests a property, HUD will first consider any property as available for use to assist the homeless as long as the property is "standing" with the expectation that OACSIM will comply with such requests.

10 Approved Application:

- a. Upon HHS approval of an application for off-site usage, installations will facilitate access for the applicant to remove the facility at no cost to the installation.
- b. Upon approval by HHS of application for onsite usage, installations will execute a no cost lease or permit document in consultation with the applicant.
- c. Lessees and grantees will protect and maintain the property during the time they possess it.
- d. Upon termination of the lease term or reversion of title to the Federal government, the lessee or grantee removes any improvements made to the property and restores it.
- e. The Army will assume responsibility for protection and maintenance of a property when the lease terminates or title reverts.
- f. The Army maintains the discretion to decide the length of time the property will be available (leases and permits will be for a period of at least one year unless the applicant requests a shorter term), whether to grant use of the property via a lease or permit, and the terms and conditions of the lease or permit document.

11. Change in status:

- a. If the information, provided on a previously submitted property checklist, changes subsequent to HUD's determination of suitability and the property remains unutilized, underutilized, excess or surplus; installations shall submit a revised property checklist for the next quarter highlighting the information which has changed.
- b. When you request a property be removed from HUD's list for demolition processing, the acceptable timeframe is that the building will be demolished within one year. If processing is halted prior to actual demolition, the installation is obligated to resubmit a checklist for the building to OACSIM POC.

12. A supplemental report is provided each quarter, Army provides to HUD for subsequent reporting in the Federal Register, new survey checklists for Army properties classified as unutilized, underutilized, excess, or surplus. The Army requests properties are removed from HUD's list and the justification/reason.

13. Exceptions and Clarifications - Off-Site

- a. Based on information provided by the installation in the survey checklist, a building may be suitable but for "off-site use only." Where a building is described as for "off-site use only," recipients of the property will be required to relocate the building to their own site at their own expense. For example, buildings in the footprint of approved new construction would be for off-site use only.
- b. Installations must clearly state cases where the building is excess but the land is not excess on the Federal Property Information Checklist form and in block 6F (Property Description, Other comments). Installations should indicate that this building is for off-site use only if the land is to be used for other purposes (after demolition of the building).

14. GSA and Excess Property

a. Property determined to be excess to the needs of the Army and GSA will be the disposal agency, does not require screening with HUD prior to reporting as excess to GSA. However, if HUD has already determined suitability, provide the HUD property number and survey checklist to GSA. Alternatively, GSA may submit a new checklist to HUD and follow its own procedures.

b. If the Army reports a property to GSA, which has not been reviewed by HUD, GSA will complete a property checklist based on information provided by the Army and forward this checklist to HUD for a suitability determination. GSA will reflect any change in classification, i.e., from unutilized or underutilized to excess, on their checklist.

15. If an installation wants to outgrant a property for other than Federal use, the property must be reported to HUD and cleared through the McKinney Act procedures before the lease is executed. The installation checklist cannot state that a property is unavailable to homeless assistance providers unless the property is also unavailable to everyone else.

16. Mobilization and Reserve Training is an Army mission; facilities that are vacant because they are set aside for mobilization purposes are not considered unutilized or underutilized and need not be reported under the McKinney Act. Similarly, facilities set aside for Reserve Training and are vacant between Reserve Training periods are not reportable under the McKinney Act.

17. BRAC base closure laws have exempted real property on closing bases for application of McKinney Act requirements. However, properties affected by BRAC law, according to statute, will be made available to the homeless either through normal McKinney Act processing or through a Local Redevelopment Authority (LRA). Please consult with your base closure POC before determining McKinney Act requirements on BRAC installations.

18. Buildings in the footprint of new construction must go through McKinney Act processing for advertising in the Federal Register just as any other demolition. Footprint buildings will be designated for off-site use only. Because construction siting is known well in advance, the McKinney Act processing should not impact the new construction on the site.

19. HUD will evaluate the environmental information contained in property checklists forwarded by the Army solely for the purpose of determining suitability of properties. If unknown at the time you are submitting the checklists state "unknown" or TBD. Provide an updated checklist when the environmental information is known.

20. Residential Community Initiative (RCI) Properties that fall under RCI housing law, 10 U.S.C. section 2878, are exempt from McKinney Act reporting.

21. Contacts: submit all McKinney Act survey checklists, requests for removal of properties from HUD list, availability status reports and questions concerning McKinney Act rules and procedures to Headquarters, Office of the Assistant Chief of Staff for Installation Management point of contact Veronica Rines, 703-601-2545, veronica.rines@hqda.army.mil.